

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No. 999 OF 2006

Dated 30th March 2007

Between:

Karanam Satyanarayana

...Petitioner

and

The Managing Director,
Farmers Service Co-operative Society,
Gaddipally, Gaddipally village,
Nalgonda District & others.

...Respondents

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ORDER:

Petitioner claims to be the member of the Farmers Service Co-operative society, Gaddipally, Nalgonda District. He challenges the action of the then Chariman of the society, the 4th respondent herein, in selling an extent of Acs.16-04 gts. of land, in Survey Nos. 96, 98 and 99, situated at Dasaigudem village of Suryapet Mandal, Nalgonda District, in favour of respondents 5 and 6, as illegal, arbitrary and contrary to the procedure prescribed under the A.P. Co-operative Societies Act, 1964, (for short "the Act") and the Rules made there under.

According to the petitioner, himself and four others are founder members of the society, and that the present membership is 3000. It is stated that the society owns and possesses land in Sy.Nos.96, 98 and

99 of Dasaigudem village, adjacent to N.H.No.9, and that it is recognized as residential commercial zone. Petitioner states that its present market value is almost Rs.5 crores. It is alleged that the 4th respondent had illegally entered into an agreement with respondents 5 and 6, without the knowledge of the members, and handed over the possession. It is stated that their effort to prevent the illegal sale did not fructify, and that he has no alternative, except to approach this court, by way of writ petition.

On behalf of respondents 1 and 4, a counter affidavit is filed. The plea of the petitioner that the membership of the society is 3000 is denied, and it is stated that according to the valid list of members, as on 20.10.2005, only 103 members are there, on the rolls of the society. It is also stated that the petitioner had ceased to be a member. They also state that, to clear the debt of the society, due to the State Bank of Hyderabad, Gaddipally Branch, in Loan Account No.CC.57, the Managing Committee of the society, at its meeting held on 27.10.2005, decided to sell the land, and the decision was unanimously approved in the General Body meeting held on 11.11.2005. As regards the value of the land, it is stated that according to the Basic Value Register, the total costs works out to Rs.30,03,475/-, whereas, it was sold in favour of respondents 5 and 6, for a sum of Rs.36,00,000/-. It is urged that the whole area is contaminated, and there is no possibility of residences coming up in the area, since even ground water is polluted.

The 5th respondent filed a counter affidavit, almost adopting the stand taken by respondents 1 to 5.

The 7th respondent got himself impleaded in the writ petition.

He stated that the same land was put to auction on 29.9.1992, and subsequently on 11.11.1992. It is stated that he became the highest bidder for a sum of Rs.5,10,000/-, for the entire land of Acs.16.04 gts., and that he deposited Rs.80,000/- immediately. Reference is made to the disputes that have arisen, subsequent thereto. It is urged that the matter is pending before the Supreme Court. He contends that his interests are also involved in the matter, and the sale in favour of respondents 5 and 6 cannot be sustained.

Heard Sri Mohd.Ishaq Ahmed, learned counsel for the petitioner, Sri D.Goverdhana Chary, learned counsel for respondents 1 and 4, Sri G.L.Narasimha Rao, learned counsel for respondents 5 and 6, and Sri Mohd.Ghori, learned counsel for respondent No.7.

There is a serious dispute, as to the *locus standi* of the petitioner, to maintain the writ petition. On behalf of respondents 1 and 4, it is contended that the petitioner is not a member of the society, at present. Since the petitioner does not claim any relief to himself, and his attempt is only to protect the interests of the society, this court does not intend to examine the question of *locus standi*, very closely.

Except stating that the sale of the land in favour of respondents 5 and 6, by the society, is contrary to the Act and the Rules, neither the petitioner, nor the 7th respondent, are able to draw the attention of this court, to any specific provision. Be that as it may, since the society is the one, registered under the Act, for the benefit of its members, who are farmers, an important decision, like the one, for alienation of the land, must be taken by the General Body, and the property must be sold, through public auction. It is no doubt true that the sale, in favour of respondents 5 and 6, was not through auction, and it was by

negotiations. If this was the only transaction, in relation to that land, there existed some possibility, to accept the contention of the petitioner.

As pleaded by the 7th respondent, the land was put to auction, for the first time on 29.9.1992. Since the response was not encouraging, it was postponed to 15.10.1992, and thereafter, to 11.11.1992. The 7th respondent has emerged as the highest bidder, for a sum of Rs.5,10,000/-. On account of the default committed by him, in paying the balance of consideration, the sale could not be finalized. The various rounds of litigation initiated by the 7th respondent, as regards the sale, ended up, in an order by the Hon'ble Supreme Court, which is to the effect that he shall be entitled to the refund of about Rs.1,00,000/-. The 7th respondent was held not to be entitled to be conveyed the property.

On behalf of respondents 1 and 4, it is stated that the land is at a location, where there is acute pollution, and contamination of ground water, and their efforts to sell the property, at a higher price, did not fructify. It is also stated that since the liability towards the State Bank of Hyderabad was mounting up, the General Body of the society unanimously passed a resolution, to sell the land, by way of negotiations. The price of basic value and the consideration, at which it was sold, have already been furnished, in the previous paragraphs.

This court initially granted an interim order, but subsequently modified the same, duly staying the registration of the sale deed in favour of respondents 5 and 6.

Inasmuch as the effort of the petitioner was to ensure that the property fetches maximum amount for the society, this court verified from the petitioner and respondent No.7, as to whether they can procure any purchasers of the property, for a higher amount. It was

pointed out that in case the 7th respondent is so particular about the matter, he must deposit a sum of Rs.50,000/-, to prove his bonafides, and the petitioner also can arrange a party, who can comply with this condition. Both of them expressed their inability, to comply with this condition. It may be true that if the property is put to auction now, it may fetch some more amount, in view of the recent escalation. But the matter needs to be examined, as the situation emerged when the property was sold. Nothing prevented the 7th respondent, to offer the same amount, as did the respondents 5 and 6. Compared to the consideration of Rs.5,10,000/-, offered by respondent No.7 in the year 1992, a sum of Rs.36,00,000/- paid by respondents 5 and 6, is fairly higher, and cannot be said to be inadequate. No serious irregularity, or infirmity, is pointed out. This court does not find any basis to interfere with the sale of the land in favour of respondents 5 and 6.

The writ petition is accordingly dismissed. There shall be no order as to costs.

30th March 2007

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